

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JAN 27 2020

MITCHELL R. ELFERS

CLERK /MD

UNITED STATES OF AMERICA  
(PLAINTIFF)

DATE: 01/24/2020

VS ~

MICHAEL J. NISSEN  
(DEFENDANT)

MOTION FOR ACQUITTAL, OR  
TO DISMISS INFORMATION OF  
TWO COUNTS FOR PROSECUTORIAL  
MISCONDUCT

CASE# 1:19-CR-00077-JTB

MOTION FOR ACQUITTAL, OR TO DISMISS INFORMATION  
OF TWO COUNTS FOR PROSECUTORIAL MISCONDUCT

NOW COMES MICHAEL J. NISSEN, THE DEFENDANT,  
(HEREIN-AFTER, DEFENDANT), IN THE ABOVE ENTITLED  
ACTION, RESPECTFULLY MOVES THIS COURT FOR AN ORDER  
OF ACQUITTAL OR DISMISSING THE INFORMATION OF  
COUNTS I AND II AGAINST HIM. IN SUPPORT THEREOF,  
THE DEFENDANT STATES AS FOLLOWS:

1) ARTICLE I, SECTION 10, OF THE UNITED STATES  
CONSTITUTION, EX POST FACTO LAWS ARE ILLEGAL.  
THE UNITED STATES CONSTITUTION IS THE  
SUPREME LAW OF THE LAND. ALL STATUTES,  
INCLUDING 18 U.S.C. § 875(c) ARE IN PURSUANCE

1 THEREOF. THEREFORE DEFENDANTS CHARGES AND CONVICTION  
2 OF STATUTE 18 U.S.C. § 875(C) IS EX POST FACTO LAW  
3 AND ILLEGAL AND UNLAWFUL UNDER THE UNITED  
4 STATES CONSTITUTION.

5  
6 2) THE ORGANIC ACT IS AN ACT OF CONGRESS  
7 CONFERRING POWERS OF GOVERNMENT UPON A TERRITORY.

8 A STATUTE BY WHICH A MUNICIPAL CORPORATION  
9 IS ORGANIZED AND CREATED IS ITS "ORGANIC ACT"  
10 AND THE LIMIT OF ITS POWER, SO THAT ALL ACTS  
11 BEYOND THE SCOPE OF THE POWERS THERE GRANTED  
12 ARE VOID.

13  
14 3) EVERY COUNT OF THE INFORMATION SHOULD  
15 BE DISMISSED BECAUSE THE PROSECUTION WAS  
16 BROUGHT SELECTIVELY AND FOR AN IMPROPER  
17 PURPOSE

18  
19 4) PRESENTING IMPROPER AND EXTRANEIOUS  
20 MATERIAL TO THE GRAND JURY IF ANY.

21  
22 5) THE EVIDENCE UPON WHICH THE GRAND JURY  
23 INDICTMENT IS BASED ON IS AN ILLEGAL, FACT  
24 LAGGING PROSECUTORIAL MISCONDUCT PRESUMPTION  
25 OF A CALL LOG WHICH ISN'T SUFFICIENT TO  
26 SUPPORT SUBJECT MATTER JURISDICTION OVER THE  
27 IN PERSONAM OF DEFENDANT TO BRING FORTH  
28 AN INDICTMENT OF TWO COUNTS RELATED TO

1 INTERSTATE AND FOREIGN COMMERCE .

2

3 6) BREACHING THE VEIL OF SECRECY IN  
4 RELEASING TO THE PUBLIC AND PRESS MATTERS  
5 WHICH WERE BEFORE THE GRAND JURY IF ANY.

6

7 7) INDICTMENT OF GRAND JURY IF ANY, LACKS  
8 GRAND JURY FOREPERSON SIGNATURE WHICH IS  
9 REQUIRED FOR CONSTITUTIONALITY UNDER FEDERAL  
10 CRIMINAL PROCEDURE RULE 6 (C) OF GRAND JURY.

11

12 8) CONSTITUTIONAL DUE PROCESS AND EQUAL  
13 PROTECTION OF LAW UNDER THE FIRST, FOURTH, FIFTH,  
14 SIXTH, EIGHTH, NINTH, TENTH, ELEVENTH, FOURTEENTH  
15 CONSTITUTIONAL AMENDMENTS, BILL OF RIGHTS,  
16 DEFENDANTS CIVIL RIGHTS ALL GUARANTEED  
17 ARE AND WERE EGREGIOUSLY VIOLATED BY  
18 PROSECUTORIAL MISCONDUCT OF THE UNITED  
19 STATES DISTRICT ATTORNEY AND DEPUTY ATTORNEY.

20

21 WHEREFORE, DEFENDANT PRAYS THAT THIS  
22 HONORABLE COURT DOES WHAT IS MORALLY AND  
23 ETHICALLY CORRECT OF PROFESSIONAL CONDUCT AND  
24 ACQUITS OR DISMISSES THE INFORMATION OF THE  
25 CRIMINAL CONVICTION AGAINST HIM ON ANY ONE OR  
26 ALL OF THE GROUNDS SET OUT HEREIN-BEFORE.

27

28

1 DATED: 01/24/2020

RESPECT FULLY SUBMITTED,  
Michael J. Nissen

3 MICHAEL J. NISSEN

4 (DEFENDANT)



5 OFFICIAL SEAL  
Stephanie Woodard

6 NOTARY PUBLIC - State of New Mexico

7 My Commission Expires

10/22/2023

8 S. Woodard

ATTORNEY OR DEFENDANT WITHOUT ATTORNEY (NAME, ADDRESS)		RESERVED FOR CLERKS FILE STAMP
MICHAEL J. NISSEN 02508151 P.O. BOX 3540 CIBOLA COUNTY CORRECTIONS CENTER MILAN, NM 87021		
UNITED STATES DISTRICT COURT 333 LOMAS BLVD NW ALBUQUERQUE, NM 87102		
DEFENDANT;		
PROOF OF SERVICE BY MAIL		

- 1) I AM OVER THE AGE OF 18 AND NOT A PARTY TO THIS ACTION.  
 2) I SERVED THE FOLLOWING: MOTION TO ACQUITTAL, DISMISS INFORMATION FOR PROSECUTORIAL MISCONDUCT

- 3) I SERVED A COPY OF THE DOCUMENTS ON 01/24/2020 AS FOLLOWS  
☒ BY MAIL; I SERVED THE DOCUMENTS BY ENCLOSING THEM IN AN ENVELOPE AND DEPOSITING THE SEALED ENVELOPE WITH THE UNITED STATES POSTAL SERVICE WITH THE POSTAGE FULLY PREPAID TO THE ADDRESS SHOWN BELOW:

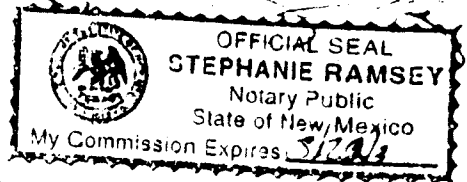
UNITED STATES DISTRICT COURT  
 333 LOMAS BLVD NW  
 ALBUQUERQUE, NM 87102

- 4) I AM:

☒ NOT A REGISTERED NEW MEXICO PROCESS SERVER.

- 5) MY NAME, ADDRESS, TELEPHONE NUMBER

PAUL G. CARRILLO, JR.  
 6503 KARLSON DR. NE  
 ALBUQUERQUE, NM 87113



- 6) I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF NEW MEXICO THAT THE FOREGOING IS TRUE AND CORRECT: DATE: 01/24/2020

PAUL G. CARRILLO, JR.  
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

[Signature]  
 (SIGNATURE OF PERSON WHO SERVED THE PAPERS)

PROOF OF SERVICE BY MAIL

MICHAEL NISSEN

P.O. 02508151

P.O. BOX 3540

CIBOLA COUNTY CONCENTRATION CAMP  
MILAN, NM 87021

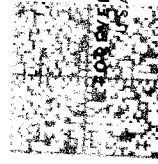
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NM 870

24 JAN '20

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"FRANK"



Barn Swallow

CLERK OF,

UNITED STATES DISTRICT COURT  
333 LOMAS BLVD, NW  
ALBUQUERQUE, NM

RECEIVED  
JAN 27 2020  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

MITCHELL R. EILEERS  
CLERK


87102-227470



LEGAL MAIL 01/23/2020 MJN

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